

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

US BANK, NATIONAL ASSOCIATION AS  
TRUSTEE FOR JPM ALT 2006-A1,

No. C 08-3822 CW

ORDER REMANDING CASE  
TO STATE COURT

Plaintiff,

v.

DANILO IGTANLOC,

Defendant,

/

Defendant Danilo Igtanloc removed this case to federal court. In his notice of removal, Defendant alleges that this Court has both diversity jurisdiction and federal question jurisdiction over this case. Plaintiff filed this unlawful detainer action based on Defendant's refusal to vacate after his home was foreclosed upon and sold to Plaintiff pursuant to California Civil Code § 2294.

Defendant alleges that the Court has diversity jurisdiction because Plaintiff is a corporation with its principal place of business in Minnesota and he is a citizen of California. Defendant further argues that the amount in controversy exceeds \$500,000, the value of the property. However, this unlawful detainer action does not concern the actual transfer of Defendant's property to Plaintiff. Rather, as Plaintiff alleges in its complaint, the amount in controversy is based on the reasonable rental value of the property.

Defendant also alleges that this Court has federal question

1 jurisdiction based on his assertion that the foreclosure violated  
2 his rights under the United States Constitution and various federal  
3 statutes. As stated above, this case does not concern the  
4 underlying foreclosure. Moreover, even if Defendant were able to  
5 challenge the fairness of the foreclosure in this action, federal  
6 question jurisdiction would not exist. Federal question  
7 jurisdiction arises only from the face of a well-pleaded complaint,  
8 not the defenses or counterclaims alleged by Defendant. Takeda v.  
9 Northwestern Nat'l Life Ins. Co., 765 F.2d 815, 821-22 (9th Cir.  
10 1985).

11 For the foregoing reasons, the Court REMANDS this case to the  
12 Contra Costa County Superior Court.

13 IT IS SO ORDERED.

14 Dated: 8/12/08



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CLAUDIA WILKEN  
United States District  
Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

US BANK,

Plaintiff,

v.

DANILO IGTANLOC et al,

Defendant.

Case Number: CV08-03822 CW

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 12, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Danilo Igtanloc  
2370 Tamalpais Ave.  
Brentwood, CA 94513

Earl Robert Wallace  
Ruzicka & Wallace LLP  
16520 Bake Parkway  
Suite 280  
Irvine, CA 92618

Dated: August 12, 2008

Richard W. Wieking, Clerk  
By: Sheilah Cahill, Deputy Clerk